

EX PARTE OR LATE FILED

93-253  
DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

May 18, 1994

RECEIVED

IN REPLY REFER TO:

JUN 17 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Honorable Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Feinstein:

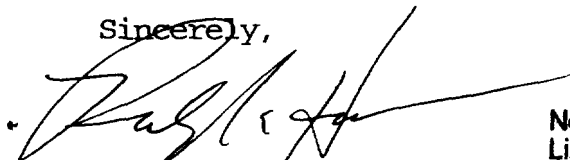
This is in reply to your letter of January 28, 1994, on behalf of your constituents Mr. Eric S. Hill and Mr. Byran T. Biniak. Mr. Hill and Mr. Biniak expressed concern that a national personal communications service (PCS) license would bar entry to the PCS arena by small businesses and entrepreneurs, and urged the FCC not to establish an "AT&T-like national PCS system." In addition, your constituents requested the Commission to set aside a certain number of licenses for small business interests. Finally, they suggested that PCS communications will soon be able to carry video as well as voice and data, and asked the Commission not to prohibit video on PCS. Your letter was referred to me as Chief of the Personal Communications Systems Task Force for the Commission.

On March 8, 1994, the Commission adopted a Second Report and Order, PP Docket No. 93-253 (Auction Order), to implement the competitive bidding provisions of the Omnibus Budget Reconciliation Act of 1993 (OBRA). The Auction Order adopted a broad menu of tools to assist small businesses, rural telephone companies, and businesses owned by women and minorities ("designated entities"). The Commission, for example, established an installment payment program for small businesses so that they could pay for their licenses over time, thereby conserving scarce capital. It provided for bidding credits for use by the designated entities so that they could compete more effectively against large, "deep pocket" bidders. The Auction Order provides, in appropriate cases, for the set aside of certain blocks of spectrum for which only designated entities may apply.

On April 20, 1994, the Commission adopted (but has not yet released) a Third Report and Order regarding narrow band PCS. The Commission stated that it would first auction the ten available nationwide narrow band PCS licenses. Subsequently, it will auction thirty regional licenses. Finally, the 360 major trading area (MTA) licenses and 984 basic trading area (BTA) licenses will be auctioned. With respect to IVDS, the Commission will auction licenses that cover population centers first, followed by licenses for the less populated, or rural, areas.

Finally, the Commission has adopted no regulations to date that prohibit the carriage of video communications over PCS.

Sincerely,



Ralph A. Haller  
Chief, PCS Task Force

No. of Copies rec'd  
List ABCDE

021

DIANNE FEINSTEIN  
CALIFORNIA

United States Senate  
WASHINGTON, DC 20510-0504

OPP

COMMITTEE ON APPROPRIATIONS  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON RULES AND ADMINISTRATION

Auctions  
J98

January 28, 1994

Ms. Lauren J. Belzin  
Acting Director, Office of Legislative Affairs  
Federal Communications Commission  
1919 M Street, N.W.  
Room 808  
Washington, D.C. 20554

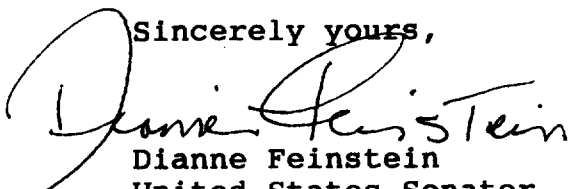
Dear Ms. Belzin:

Enclosed is a letter from my constituent Eric S. Hill regarding PCS licenses. In order to fully respond to my constituents, it is important to have your position and views of the question(s) raised.

Since my office receives a large volume of mail, please refer your return correspondence to Robert Lum in my Washington office. If you have any further questions, Robert can be reached at (202) 224-9341.

Thank you for your attention to this matter.

Sincerely yours,

  
Dianne Feinstein  
United States Senator

DF:rcl

369258

P.O. Box 24122  
Los Angeles, CA 90024-0122  
August 26, 1993

FCC

Senator Dianne Feinstein  
331 Senate Hart Building  
Washington, D.C. 20510

Senator Barbara Boxer  
112 Senate Hart Building  
Washington, D.C. 20510

Representative Henry Waxman  
2408 Rayburn House Building  
Washington, D.C. 20515


Dear Senator Feinstein, Senator Boxer, and Representative Waxman:

Enclosed please find a copy of a letter we sent to the FCC. We are sending it to you to make you aware of the important decisions which the FCC will make in September concerning PCS licenses.

It is in California's best interest to have regional and not national licenses. Based upon the locations of the primary telecommunication and cable companies, and their acquisition trends, the national licenses would most likely be won by companies outside the state. Consequently, taxable revenue would be removed from this state and transferred elsewhere. We have the largest market of any state, and therefore we should work to protect our fair share of the revenue and jobs that are derived therefrom.

Please do not hesitate to call us if you would like to discuss this matter further: Eric Hill, (310) 575-6781; Bryan Biniak, (310) 314-3019.

Sincerely,

  
Eric S. Hill

  
Bryan T. Biniak

Encl.

P.O. Box 24122  
Los Angeles, CA 90024-0122  
August 27, 1993

By Certified Mail.  
Return Receipt Requested

Chairman James Quello  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Commissioner Ervin Duggan  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Commissioner Andrew Barrett  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Chairman Quello, Commissioner Duggan, and Commissioner Barrett:

We are individual citizens interested in applying for a PCS license. We are not affiliated with any lobbying group. We are writing because we believe it is important for you to hear a representative view directly from the small business interests and citizens who will be affected by your September rulemaking.

We summarize our position as follows:

1. Do not grant national licenses.

National licenses will squelch any opportunity for entrepreneurs and small businesses to enter the PCS arena. Upstart regionals will not be able to compete with well-funded nationals. The national licenses will be taken by the same players that control the national telecommunications industry today: MCI, AT&T, Telecommunications, Inc., etc. The result will be several national licensees acting as an oligopoly. If regional licensees exist, they will be reduced to acting as extensions of the national systems, rather than becoming viable competitors in an increasingly complex telecommunications marketplace.

Once the national systems are in place, they will be very difficult and costly to undo, as evidenced by the years of antitrust litigation involved in disassembling the AT&T telephone monopoly. That break-up, and the subsequent FCC policy promoting a

decentralized, competitive national telecommunications market, have contributed to a surge in technological innovation. These advances, together with the more competitive rate structure brought about by deregulation, have benefitted the national interest. We therefore urge the FCC not to reinstitute an AT&T-like national PCS system. As an alternative, the FCC could retain the right to offer national licenses in the future should the need arise.

An argument for national licenses has been that they will allow service users to make calls anywhere in the country as opposed to being limited to a single region. However, this argument is specious, and outweighed by the anticompetitive results which would occur. Allow the market to function, and resourceful PCS providers will develop systems which meet consumer needs. Everything which the proponents of national licenses claim only they can provide can and will be provided in a system of competitive regional licensees.

The government's policy here should be to foster innovation and promote competition, not to hinder them. The ultimate winner will be the consumer, who will benefit from lower rates and technological advances.

2. Reserve some licenses for entrepreneurs.

Small businesses and entrepreneurs will not be able to outbid large corporations in an auction for PCS licenses. We therefore request that you set aside a certain number of licenses in each region for small business interests. While in the short run the government may not derive the auction revenue it otherwise would have received, the long-term benefit will outweigh the short-term costs. Young entrepreneurs will bring new ideas and a strong work ethic to the telecommunications marketplace. A pool of bright, energetic, well-educated individuals exists in this country who are fascinated by the technological changes underway in the telecommunications, computer and entertainment fields. Give us the opportunity to enter this field. We want to work hard. We want to try new ways of doing business. We want to compete.

3. Permit PCS licensees to carry video.

Although the technology may not yet be commercially available, we believe it is only a matter of time until PCS communications will carry voice, data and video. We therefore request that you do not prohibit PCS transmitters from eventually carrying video in addition to voice and data.

We hope that you will find our comments informative and useful. If you wish to discuss this matter further, please do not hesitate to

Federal Communications Commission  
August 27, 1993  
Page 3

contact us at (310) 575-6781 (Eric Hill) or (310) 314-3019 (Bryan Biniak).

Respectfully submitted,

*Eric S. Hill*

Eric S. Hill

*Bryan T. Biniak*

Bryan T. Biniak

cc: Senator Dianne Feinstein  
Senator Barbara Boxer  
Representative Henry Waxman

thing, too. We ought to get rid of this painfully embarrassing measure.

I am handed a note that says, under the amendment of my friend from Nebraska, New York City hospitals would lose about \$300 million a year in Medicaid matching for emergency services provided to aliens. Well, they would. We can ill-afford it. But the statute provides those services as a matter of law, and those hospitals predate Medicaid.

New York hospitals were founded by a charter from George II, and they have not, since the day they opened, whether it is Beth Israel or Albert Einstein or Columbia Presbyterian, which began as the College of Physicians and Surgeons of King College, or the great Catholic hospitals of Brooklyn and Queens, they have never, since the day their doors opened, closed them to any human being in need of help. They were there before this statute. Under the statute, which dates from 1965, and by enactment within the last 10 weeks, they are entitled to reimbursement for that care. They will continue to give it whether they are reimbursed or not, save some will end up closing the doors opened a century ago, a half century ago, 250 years ago.

I do not know that anything more need be said, Madam President. I will be prepared to answer any question addressed to me.

I see the distinguished Senator from Illinois has risen, and I will be happy to yield for any question she might ask.

Ms. MOSELEY-BRAUN. A question to the Senator from New York: The Senator had indicated—the Senator is an expert, actually, in the area of unemployment insurance. Section B of the underlying amendment refers specifically to the issue concerning unemployment insurance.

Mr. MOYNIHAN. It does.

Ms. MOSELEY-BRAUN. Perhaps for the edification of the body, if the Senator would discuss where we are in terms of reform of the unemployment insurance program so as to respond to this section of the amendment, that would be helpful.

Mr. MOYNIHAN. I am grateful to my friend for raising this question. It is time that we revisited the whole structure of unemployment benefits, which was established as a part of a title of the Social Security Act of 1935. We then later added extended benefits, and now we have a special further extension.

I can report to my friend from Illinois, who follows these matters carefully, that we have successfully concluded a House-Senate conference on the extension, which was voted in the Senate about 2 weeks ago, for which we had the unyielding support of the Senator from Illinois. That has been done. The conference committee will come to the floor possibly later today. The matter will be done and on the President's desk in a very few days.

During that debate, she well recalls, I suggested the time to straighten up this system so it is easily understood by the workers for whom it is designed is at hand as regards part B.

Only aliens with green cards, which is to say legal aliens with the right to work, will have unemployment benefits paid for them, and when they do, they will have a Social Security number and that is their social insurance. Social insurance is a matter of right—a participatory, contributory insurance.

I thank the Senator from Illinois for raising the prospect that next session we should have a thorough review of this whole matter and every half century, if you fix up a program, that is not precipitous. But this is, what we have before us is precipitous and indefensible.

Ms. MOSELEY-BRAUN. To the Senator from New York, is it not a fact then that this amendment suggests something that is going to remove something that is already an illegal act? It is illegal for an illegal alien to collect unemployment benefits today. So section B of this amendment is unnecessary at best and precipitous, as you call it, at worst?

Mr. MOYNIHAN. My learned and alert friend is absolutely right. We are prohibiting something which is now prohibited. That is trivializing debate on crime, which is real.

Ms. MOSELEY-BRAUN. I thank the Senator from New York.

Mr. MOYNIHAN. Madam President, I again see no Senator wishing to speak. Given the nature of this amendment, I am not surprised. I hope it might just be withdrawn. I cannot say what will happen, but it has no place in this legislation, and it has no place on our statute books.

I thank the Chair and yield the floor.

Ms. MOSELEY-BRAUN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, what is the current parliamentary status of the Senate? What is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is the second-degree amendment of the Senator from Florida.

Mr. GRAHAM. Madam President, I am pleased to report that there has been some very constructive discussion with the Senator from Nebraska. I believe that an amendment has been developed which will achieve the goals that the Senator from Nebraska seeks, yet which will be consistent with what many of us believe to be appropriate Federal responsibility.

Therefore, I withdraw the second-degree amendment which I previously submitted, and I yield the floor.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered. The amendment is withdrawn.

The amendment (No. 1115) was withdrawn.

#### AMENDMENT NO. 1100, AS MODIFIED

Mr. EXON. Mr. President, since the yeas and nays have not been ordered under my amendment, I send a correcting amendment to the desk, and as that it be incorporated as modified and changed.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment (No. 1100), as further modified, is as follows:

At the appropriate place, insert the following:

#### SEC. . PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO ILLEGAL ALIENS.

(a) DIRECT FINANCIAL BENEFITS.—Notwithstanding any other law, no direct Federal financial benefit or social insurance benefit may be paid, or otherwise given, to any person not lawfully present within the United States for Aid to Dependent Children (AFDC), Supplemental Security Income (SSI) for the Aged, Blind, and Disabled; Food Stamps; Medicaid except for emergency conditions; legal services; assistance under the Job Training and Partnership Act; unemployment compensation; and postsecondary student financial aid.

(b) UNEMPLOYMENT BENEFITS.—No alien who has not been granted employment authorization pursuant to Federal law shall be eligible for unemployment compensation under an unemployment compensation law of a State or the United States.

(c) DEFINITION.—In this section, "person not lawfully present within the United States" means persons who at the time the applied for, receive, or attempt to receive Federal benefit are not either a United States citizen, a permanent resident alien, an asylee or asylee applicant, a refugee, a parolee, a nonimmigrant in status under the Immigration and Nationality Act, or admitted with temporary protected status, temporary residents, or persons granted Family Unity Protection Status under the INA.

Mr. EXON. Mr. President, let me request at this time that in addition to the previously announced and recorded cosponsors of the amendment, as now stands I wish to add as cosponsors the Senator from Florida [Mr. GRAHAM], the Senator from Washington State [Mrs. MURRAY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senators from California, [Mrs. FEINSTEIN and Mrs. BOXER], and the Senator who now presides in the chair, the Senator from Arizona [Mr. DECONCINI].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to have reached this compromise substitute amendment. I understand Senator EXON's concern in offering his amendment, and I am pleased he has agreed to this compromise.

There is a good deal of misinformation about this issue. Current law readily denies illegal aliens access Federal benefits, except in a few narrow

P.O. Box 24122  
Los Angeles, CA 90024-0122  
August 27, 1993

By Certified Mail.  
Return Receipt Requested

Chairman James Quello  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Commissioner Ervin Duggan  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Commissioner Andrew Barrett  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Chairman Quello, Commissioner  
Barrett:

ssioner

We are individual citizens interested in applying for a PCS license. We are not affiliated with any lobbying group. We are writing because we believe it is important for you to hear a representative view directly from the small business interests and citizens who will be affected by your September rulemaking.

We summarize our position as follows:

1. Do not grant national licenses.

National licenses will squelch any opportunity for entrepreneurs and small businesses to enter the PCS arena. Upstart regionals will not be able to compete with well-funded nationals. The national licenses will be taken by the same players that control the national telecommunications industry today: MCI, AT&T, Telecommunications, Inc., etc. The result will be several national licensees acting as an oligopoly. If regional licensees exist, they will be reduced to acting as extensions of the national systems, rather than becoming viable competitors in an increasingly complex telecommunications marketplace.

Once the national systems are in place, they will be very difficult and costly to undo, as evidenced by the years of antitrust litigation involved in disassembling the AT&T telephone monopoly. That break-up, and the subsequent FCC policy promoting a

Quello -  
no record  
of  
letter  
received.